REMARKS

In the office action mailed March 10, 2003, claims 7 and 17 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-6, and 11-16 are rejected under 35 USC §103(a) as being unpatentable over Elliot et al. (U.S. patent 6,431,875 B1). Claims 7 and 17 are rejected under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Brown et al. (U.S. Patent 6,206,700 B1). Claims 8 and 18 are rejected under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Mishkin (U.S. Patent 6,377,781 B1). Finally, claims 9, 10, 19 and 20 are rejected under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Siefert (U.S. Patent 6,386,883 B2).

In response to the rejection of claims 7 and 17 under 35 USC §112, second paragraph, Applicant has amended claims 7 and 17 to overcome the rejection. In particular, Applicant has amended both claims 7 and 17 to indicate that the step of identifying individual ones of class profiles comprises "comparing the frequency of successive equal measures of class success in answering the questions on a question-by-question basis." Applicant submits that the claims as amended are no longer indefinite.

In response to the rejection of Claims 1-6, and 11-16 under 35 USC §103(a) as being unpatentable over Elliot et al. (U.S. patent 6,431,875 B1), the Applicant has amended the claims to more clearly distinguish the Applicant's invention over Elliot et al. In particular, the Applicant has amended independent clams 1 and 2 to include steps of:

> (a) providing a set of class profiles <u>by test administrator</u>, each class profile indicative of performance of a respective class on a selected group-administered test comprising a plurality of questions; and

> (b) generating with a computer a normative profile indicative of normative class performance on the selected test<u>, where the members of each class included in the normative profile are subject to the direction of a test administrator on the selected test</u>.

6

Applicant respectfully submits that Elliot fails to disclose or suggest providing a set of class profiles by test administrator, or generating a normative profile indicative of normative class performance on the selected test, where the members of each class included in the normative profile are subject to the direction of a test administrator on the selected test. Unlike Applicant's invention which addresses generating class profiles by test administrator, as set forth in claims 1 and 2 for example, Elliot addresses problems related to test administered over the internet. For example, Elliot suggests using certain decoy questions and response times to detect cheating.

Applicant has also amended independent claim 11 to include a step of providing a set of sub-group profiles, where each sub-group comprises <u>a plurality of individuals whose test item responses are exposed to a common external influence</u> and each sub-group profile is indicative of performance of a respective sub-group on a selected standardized test comprising a plurality of questions. Applicant respectfully submits that Elliot fails to disclose or suggest providing such sub-group profiles.

In response to the rejection of Claims 7 and 17 under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Brown (U.S. Patent 6,206,700 B1), Applicant respectfully submits that these claims are clearly allowable over the cited art for the same reason that independent claims 1, 2 and 11 are believed allowable. Brown is cited for teaching an education method in which the normative responses comprise a variable range of acceptable performance ratings in comparison to user responses. Applicant respectfully submits that Brown is directed to an interactive learning system which is highly adaptive to individual learners. Brown proposes the cited normative process as a method for determining when an individual learner has attained sufficient mastery to move on to the next level of instruction (Col. 16, lines 9 – 12). Brown identifies this normative process as including "information from a plurality of sources regarding a given learning goal" (Col. 16, lines 32 – 47) and suggests these multiple sources to be superior to traditional "right or wrong responses" (Col. 3, line 64 to Col. 4, line 2). Thus, the normative process suggested by Brown is an alternative method of determining individual success in mastering a single, specific learning goal. Brown fails to disclose providing a set of class profiles by test administrator, each class profile indicative of performance of a respective class on a selected group-administered test comprising a plurality of questions or providing sub-groups comprising a plurality of individuals whose test item responses are exposed to a common external influence as
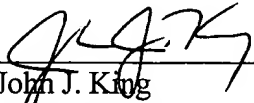
7

claimed by Applicant. Any combination of the references would not lead to Applicant's invention.

In response to the rejection of Claims 8 and 18 under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Mishkin, Applicant respectfully submits that these claims are clearly allowable over the cited art for the same reason that independent claims 1, 2 and 11 are believed allowable. Mishkin is cited as teaching that individual profiles may be accumulated into larger units as defined by sessions for entire classes and groups of classes, including any sub-grouping desired based upon the number of sessions taking the same quiz. Mishkin describes a computer system that may store the results of computer administered quizzes in "quiz data files" which may accumulate information from a number of different quiz sessions (Col. 4, lines 54-59). Mishkin further describes the alternatives of viewing quiz results organized by students or by questions (Col. 5, lines 46-52) and the availability of information in the form of summary statistics, including average scores and distributions of scores (Col. 7, lines 42-47). Applicant respectfully submits that Mishkin makes no reference to profiles and no reference to an organization of the quiz data in such a manner that would suggest either class or sub-group profiles as claimed by Applicant. Mishkin fails to disclose providing a set of class profiles by test administrator or providing sub-groups comprising a plurality of individuals whose test item responses are exposed to a common external influence as claimed by Applicant. Accordingly, any combination of the references would not lead to Applicant's invention.

Finally, in response to the rejection of Claims 9, 10, 19 and 20 under 35 USC §103(a) as being unpatentable over Elliott et al. in view of Siefert, Applicant also respectfully submits that these claims are clearly allowable over the cited art for the same reason that independent claims 1, 2 and 11 are believed allowable. Siefert, which is directed to a computer assisted education program, also fails to disclose providing a set of class profiles by test administrator or providing sub-groups comprising a plurality of individuals whose test item responses are exposed to a common external influence as claimed by Applicant.

In view of the above amendments and remarks, Applicant respectfully requests reconsideration of the claims.

Respectfully submitted,

John J. King
Registration No. 35,918
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200